

## Overseas Private Investment Corporation

## § 710.11

prejudicing possible criminal proceedings. If the Department of Justice informs OPIC that it does not intend to institute criminal proceedings, such coordination shall no longer be required and OPIC shall be free to pursue administrative action.

### § 710.3 Initiation of administrative disciplinary proceeding.

Whenever the President of OPIC or the President's designee determines after appropriate review that there is reasonable cause to believe that a former OPIC employee had violated the statutory or regulatory post-employment restrictions, an administrative disciplinary proceeding shall be initiated.

### § 710.4 Notice.

The President of OPIC or the President's designee shall initiate an administrative disciplinary hearing by providing the former OPIC employee with notice of an intention to institute a proceeding and an opportunity for a hearing. Notice must include:

- (a) A statement of allegations and the basis thereof sufficiently detailed to enable the former employee to prepare an adequate defense;
- (b) Notification of the right to a hearing; and
- (c) An explanation of the method by which a hearing may be requested.

### § 710.5 Failure to request hearing.

The President of OPIC may take appropriate action referred to in § 710.13 in the case of any former OPIC employee who has failed to make a written request to OPIC for a hearing within 30 days after receiving adequate notice.

### § 710.6 Appointment and qualifications of examiner.

When a former OPIC employee after receiving adequate notice requests a hearing, a presiding official (hereinafter referred to as "examiner") shall be appointed by the President of OPIC to make an initial decision. The examiner shall be a responsible person who is a member of the bar of a State or of the District of Columbia, who is impartial and who has not participated in any manner in the decision to initiate

the proceedings. The examiner may or may not be an OPIC employee.

### § 710.7 Time, date and place of hearing.

The examiner shall establish a reasonable time, date and place to conduct the hearing. In establishing a date, the examiner shall give due regard to the former employee's need for:

- (a) Adequate time to prepare a defense properly; and
- (b) An expeditious resolution of allegations that may be damaging to the individual's reputation.

### § 710.8 Rights of parties at hearing.

A hearing shall include, at a minimum, the following rights for both parties to:

- (a) Represent oneself or be represented by counsel;
- (b) Introduce and examine witnesses and submit physical evidence (including the use of interrogatories);
- (c) Confront and cross-examine adverse witnesses;
- (d) Present oral argument; and
- (e) Receive a transcript or recording of the proceedings on request.

### § 710.9 Burden of proof.

In any hearing under this part, OPIC shall have the burden of proof and must establish substantial evidence of a violation of the statutory or post-employment restrictions.

### § 710.10 Findings.

The examiner shall make a determination exclusively on matters of record in the proceeding and shall set forth in the written decision all findings of fact and conclusions of law relevant to the matters in issue.

### § 710.11 Appeal.

(a) Within 20 days of the date of the initial decision, either party may appeal the decision to the President of OPIC. The President's decision on such appeal shall be based solely on the record of the proceedings or those portions thereof cited by the parties to limit the issues.

(b) If the President modifies or reverses the examiner's decision, the President shall specify such findings of